



The Compliance Connection

Regulatory News for Virginia Mortgage and Consumer Finance Companies
State Corporation Commission -- Bureau of Financial Institutions

The Compliance Connection is published quarterly and is part of the Bureau's efforts to improve communication with the companies we regulate. It is distributed to Virginia mortgage, consumer finance, industrial loan, and non-profit debt-counseling agency licensees, and other interested parties. It is the licensee's responsibility as a Virginia mortgage licensee to read this newsletter and to be familiar with the positions and interpretations stated herein.

Suggestions and comments concerning the newsletter or its contents should be addressed to the Bureau at P.O. Box 640, Richmond, Virginia 23218-0640 or via e-mail at: nwalker@scc.state.va.us.

Special thanks to Susan Hancock, Melissa McCollum and Jane Owen, for their contributions to this issue!

Is Your Staff "In The Know?"

Do your employees know where they can access pertinent laws, regulations and administrative letters? Do you share the information discussed in the newsletter with your staff? The Bureau often receives calls from office staff who have questions about the laws and do not know where to go to find an answer. We encourage you to inform your staff that all of the laws, regulations and administrative letters, as well as current and past issues of this newsletter, press releases and frequently asked questions are on our Web site (www.state.va.us/scc/division/banking).

The Bureau is very concerned with keeping down the cost of regulation for our licensees, so only one copy of the law book, regulations, administrative letters and newsletters are mailed to each licensee. It is the responsibility of the recipient (usually someone at the main office location) to distribute pertinent compliance information to staff members who deal in any way with Virginia loans.

Additional copies of the law books may be purchased directly from the publisher, LexisNexis Matthew Bender, by calling 800-223-1940. The 2004 Edition of the Laws of Virginia Related to Non-Depository Financial Services (product number 3549815) was recently mailed to licensees. This edition replaces and updates the 2002 Edition, the 2003 Supplement and the 2004 stop gap.

Use Caution When Soliciting Refinances

In recent complaints filed with the Bureau, it has been brought to our attention that there are solicitation letters being sent to consumers that may be in violation of Section 6.1-424 of the Code of Virginia relating to advertising. The Bureau cautions all mortgage licensees that solicitations should not contain the terms pre-approved unless it meets the definition adopted by the Federal Reserve Board in a February 2002 Final Rule.

In our Summer 2002 issue of this newsletter, the Bureau provided definitions for pre-approval and pre-qualification in response to numerous complaints from consumers who received pre-approval letters which were actually only pre-qualification letters. These mail solicitations used pre-screened information from credit bureaus to notify consumers that they were pre-selected based on the information from the credit bureaus. The solicitations encouraged the consumers to call to find out if a refinance opportunity is available which may save them money on their mortgage.

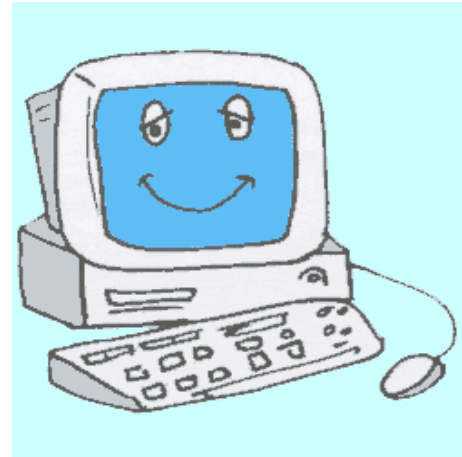
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Annual Reports Now Available Online:

The 2003 Supplement to the Bureau of Financial Institutions' Annual Report for Mortgage Lender and Broker Licensees, Industrial Loan Associations, Money Order Sellers/Money Transmitters, Non-Profit Debt-Counseling Agencies and Check Cashers, and the 2003 Supplement pertaining to Consumer Finance Licensees can be found at: www.state.va.us/scc/division/banking/annual.



Household - Beneficial Settlement Update

On December 19, 2002, the State Corporation Commission entered into a settlement agreement with Household



International, Inc. on behalf of its mortgage subsidiaries, including Household Finance (Household) and Beneficial Mortgage. Virginia's share of the nationwide settlement was \$16.7 million. Settlement funds were distributed to eligible Virginians who obtained real estate secured loans from Household between January 1, 1999 and

September 30, 2002 and who elected to participate in the settlement.

Eligible consumers were given until October 24, 2003 to file claims with the Settlement Administrator. The Settlement Administrator began mailing checks on December 16, 2003 to eligible consumers who participated in the settlement. The deadline for all check reissue requests was April 23, 2004. The Settlement Administrator is no longer accepting requests to reissue refund checks.

All funds not distributed will revert to the unclaimed property section of the Commonwealth of Virginia, and will be available after June 30, 2004.

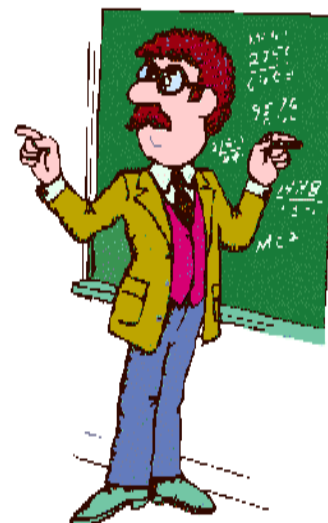
Fax Fees Prohibited for Payoff Statements

Section 6.1-330.82 of the Code of Virginia requires that a written statement of the payoff amount be delivered to the property owner or his designee within ten (10) business days of the receipt of a written request for such payoff information. A request for payoff information may be made once within a twelve-month period *without charge*. A charge not to exceed \$15.00 may be imposed for each additional request made within the twelve-month period. The law does not allow for any other charges to be imposed. For example, fax fees or charges to expedite deliveries of payoff information are not allowed and will be cited as overcharges. The holder of the obligation may not charge the borrower for the mode of delivery of payoff information.



Attention New Mortgage Licensees:

Friday, November 12, 2004 is the date of the next orientation for new mortgage licensees. Registration packets will be sent to companies that are licensed between July 1, 2004 and September 30, 2004. Orientation begins at 9:30 a.m. at our office and concludes around 3:00 p.m. We will make every attempt to accommodate licensees who have not attended a previous session or wish to attend again; however, due to an increased number of new licensees and limited seating, only one representative from each company should attend. Newly licensed companies are given priority. Please contact Carol Foster or Jane Harris at (804) 371-9701 to inquire about seating availability. Business casual attire is acceptable.



VA Commissioner Joins CSBS Strategic Planning Session

CSBS Vice Chairman and Virginia Commissioner of Financial Institutions E. Joseph Face, Jr. took part in the Conference of State Bank Supervisors' (CSBS) Strategic Planning Committee meeting on August 4-5. Commissioner Face is CSBS Vice Chairman for 2004-2005. The meeting was held to review and update CSBS' strategic plan to address federal and state policies impacting the nation's banking and financial institutions and their customers. Commissioner Face was one of nine state bank commissioners participating in the 1 1/2-day meeting, led by Missouri Commissioner of Finance and CSBS Chairman-Elect Eric McClure.



"Through CSBS, state bank regulatory agencies and state-chartered banks continue to champion a system that offers competitive chartering options, efficient and effective supervision," Commissioner Face said. "This meeting solidified CSBS priorities to be addressed in the coming year to ensure the continued viability of state-chartered banks, which comprise 75 percent of the bank charters nationwide," he added.

Issues emerging as priorities from the planning session included increased focus on safety and soundness, economic growth and consumer protection, and federal preemption of state authority; innovation and collaboration in supervision and

regulation; coordination with and among state and federal regulators; financial support for CSBS activities, enhanced involvement of constituents nationwide; promoting and publicizing CSBS activities; education and training for state bank examiners; and ongoing advocacy of state banking.

Specific proposals will be taken to the CSBS Board when it meets in September.

Besides Commissioner Face and Mr. McClure, other state bank commissioners participating in the planning session included current CSBS Chairman John S. Allison, Mississippi Commissioner of Banking and Consumer Finance; Oklahoma State Bank Commissioner and CSBS immediate past chairman Mick Thompson; North Dakota

Commissioner of Financial Institutions and CSBS Treasurer Timothy J. Karsky; CSBS Past Chairman and Connecticut Commissioner of Banking John P. (Jack) Burke; CSBS Board member and Indiana Director of Financial Institutions Charles W. Phillips; Michigan Commissioner of Financial and Insurance Services Linda A. Watters; and New Hampshire Bank Commissioner Peter C. Hildreth.

The Conference of State Bank Supervisors is the professional association of state officials responsible for chartering, supervising, and regulating the nation's 6,300-plus state-chartered commercial and savings banks, and more than 400 state-licensed foreign banking offices nationwide.

License Update

The following is a list of companies that have surrendered their licenses, had their licenses revoked, had an application denied, or been fined by the Commission since May 15, 2004. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of August 15, 2004. Call the Bureau if you have a question concerning a recent denial, surrender or regulatory action taken by the Commission. A list of current mortgage licensees is available on our Web site at <http://www.state.va.us/scc/division/banking/vamortgagelist.htm>

Mortgage Licenses Surrendered

ML – 560 SGB Corporation – 5/19/04
MB – 2121 Lili Ann, Inc. d/b/a Best Rate Mortgage On-Line – 5/25/04
MB – 1726 BNB & Associates, LLC – 6/16/04
MB – 1977 Aclarian, Inc. d/b/a Aclarian Mortgage – 6/22/04
MB – 2055 Mortgage Group, USA Inc. – 6/22/04
MB – 1620 Falcon Mortgage, Inc. – 6/28/04
MLB – 145 CitiFinancial Mortgage Company, Inc. – 6/30/04
MB – 1622 Congressional Funding, Inc. – 7/1/04
MB – 1269 Maximum Funding, LLC – 7/1/04
MLB – 720 Principal Residential Mortgage, Inc. – 7/1/04
ML – 330 First One Lending Corporation – 7/1/04
MB – 1981 Aable Mortgage Services, Inc. d/b/a Aable Mortgage – 7/1/04
ML – 339 Meritage Mortgage Corporation – 7/16/04
MB – 2061 Approval One Mortgage, LLC – 7/29/04
MB – 566 Community Development Group, Inc. of Delaware t/a Community Mortgage Company
MLB – 752 Homebound Mortgage, Inc. – 8/3/04
MB – 2289 Cal Capital Credit, Inc. – 8/10/04
MB – 1922 1st E-Choice Mortgage Corp. (used in VA by 1st E-Choice National Mortgage Corp.) – 8/11/04



Mortgage Licenses Denied

MB – 2411 Landmark Financial of Alexandria, LLC – 6/8/04
MB – 2281 Continental First Mortgage Corporation – 8/6/04

Mortgage Licenses Revoked

The following companies licenses were revoked on May 28, 2004 by the Commission for their failure to file the annual report by March 1, 2004 in violation of §6.1-418 of the Code of Virginia:

MB – 2012 American Mortgage Banc, Inc.
MB – 1169 Mandarin Mortgage Corp.
MLB – 666 The White Oak Mortgage Group, LLC
MB – 2060 Penn Mortgage Bank Corp.
MB – 1715 First Coast Capital Mortgage, Inc. d/b/a First Capital Mortgage
MB – 1858 Henri Jean-Baptiste d/b/a Express Mortgage & Co.
MB – 579 First Chesapeake Mortgage Corporation of Fredericksburg (used in VA by First Chesapeake Mortgage Corporation)
MB – 2050 Godwin Mortgage Group, Inc.

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Mortgage Penalties Paid

- MLB – 653 MortgageIt, Inc. d/b/a MIT Lending – paid \$1,000 on 5/24/04 for failure to obtain Commission approval prior to relocating an office, in violation of §6.1-416B of the Code of Virginia
- MLB – 791 Carteret Mortgage Corporation – paid \$50,000 settlement on 6/24/04 for various violations of laws and regulations applicable to the conduct of its licensed business
- ML – 523 Flick Mortgage Investors, Inc. – paid \$1,000 settlement on 8/9/04 for failure to obtain Commission approval prior to relocating an office and for failure to file the annual report by March 1, 2004 in violation of §§6.1-416B and 6.1-418 of the Code of Virginia



Other Penalties Paid

Michael R. Berte – paid \$1,000 on 5/24/04 for failure to obtain Commission approval prior to acquiring more than 25% of the ownership of Home Capital, Inc. (MLB – 773), in violation of §6.1-416.1 of the Code of Virginia

Use Caution When Soliciting Refinances (continued from page 1)

Notifying a consumer that they are pre-approved when no credit decision or written commitment from a lender has been obtained would be considered by the Bureau to be potentially misleading and/or deceptive, and may be in violation of §6.1-424 of the Code of Virginia and/or Virginia Regulation 10 VAC 5-160-20. This regulation states that “. . . no licensee shall . . . make false promises to induce an applicant to apply for a mortgage loan....” In addition, mortgage brokers who use this type of mail solicitation may also be in violation of the Virginia Consumer Protection Act, §59.1-196 *et. seq.* of the Code of Virginia.

According to a final rule issued by the Federal Reserve Board in February 2002 (67 Federal Register 722, February 15, 2002), a pre-approval is a written commitment issued by a lender after a comprehensive analysis of the creditworthiness of the applicant (including such verification of income, resources, and other matters as is typically done as part of a normal credit evaluation program) which is conditioned solely upon (1) identification of a suitable property; (2) no material change in the applicant's financial condition or creditworthiness

prior to closing; and (3) limitations not related to the financial condition or creditworthiness of the applicant that a lender ordinarily attaches to traditional mortgage application (such as completion of a home inspection, an acceptable title insurance binder, certification of a clear termite inspection, etc.).



The issuance of a pre-approval letter implies it is being issued by a lender who has rendered a credit decision and furnished a written commitment (subject to the limited conditions described above) to extend a home purchase loan up to a specified amount for a designated period of time.

In addition, licensees are cautioned that it is also a violation of §6.1-424 (2) for a mortgage lender or broker to identify themselves by any name other than the name set forth on the

license issued by the Commission.

Licensees are encouraged to carefully review the terminology they use when preparing mail solicitations. As discussed above, the term “pre-approval” has a specific meaning and cannot be used interchangeably with “pre-qualification.”

IMPORTANT COMMISSION TELEPHONE NUMBERS

Consumer Finance and Mortgage Examinations(804) 371-9701

Licensing (annual reports, applications, name changes, relocations).....(804) 371-9690

Consumer Complaints.....(804) 371-9705

Banks and Savings Institutions.....(804) 371-9704

Corporate Information – Clerk’s Office.....(804) 371-9733

FAX Number for the Bureau of Financial Institutions.....(804) 371-9416



Bureau of Financial Institutions
1300 E. Main Street, Suite 800
Richmond, Virginia 23219

IMPORTANT REGULATORY INFORMATION ENCLOSED!